



HARMONIZED SYSTEM
COMMITTEE

NC0329E1

-
26th Session
-

O. Fr.

Brussels, 30 October 2000.

CLASSIFICATION OF AN ELECTRIC STAINLESS STEEL

CHAFING DISH ("BAIN-MARIE")

(Item 2 on the Additional List)

Reference documents :

NC0135E1 (HSC/24)

NC0192E1

NC0160E2, Annex H/19 (HSC/24 – Report)

NC0250B2, Annexes G/9 and P/11 (HSC/25 – Report)

I. BACKGROUND

1. At its 24th Session (October 1999), the Harmonized System Committee examined the classification of a non-electric stainless steel chafing dish.
2. In a first vote, it decided that this chafing dish should be classified in Section XV and not in Section XVI, as it used a fuel in gel form. In addition, its function is to maintain food at a constant temperature, thus not fulfilling the conditions set out in the text of heading 84.19, namely treating materials by operations involving a change of temperature. It was then decided that this was not a domestic appliance within the meaning of heading 73.21. The Committee finally decided, by 22 votes to 1, to classify it in heading 73.23 (subheading 7323.93) rather than in heading 73.26, by application of GIRs 1 and 6.
3. Continuing its examination of this issue, at its 25th Session (March 2000), the Committee amended the Compendium of Classification Opinions. On 7 April 2000, the Secretariat sent this decision to the Contracting Parties (Doc. NG0018E1).
4. On 8 May 2000, the Israeli Administration sent the Secretariat the Note set out in part II below.
5. In reply to that Note, the Secretariat informed the Israeli Administration in a letter of 22 May 2000 (set out in Annex I hereto) that, in its opinion, the product at issue seemed to differ from the article classified by the Committee and that the time-limit for reservations in respect of the classification ruling for this article had expired on 31 December 1999.

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However, the time-limit for any reservation with respect to the amendment of the Compendium of Classification Opinions was still open until 31 May 2000.

6. On 29 May 2000, the Israeli Administration sent the Secretariat the Note set out in part III below.
7. From this request and the exchange of correspondence between the Secretariat and the Israeli Administration (see Annexes II and III), it appears that Israel wishes the HSC to examine the classification of the article described in its correspondence.

II. NOTE FROM ISRAEL DATED 8 MAY 2000

8. "I contact you now with an appeal against your decision concerning the classification of a chafing dish ("bain –marie") as was presented in "NOTE FOR CONTRACTING PARTIES TO THE HARMONIZED SYSTEM CONVENTION – APPROVAL OF DECISIONS TAKEN BY THE HARMONIZED SYSTEM COMMITTEE AT ITS 25TH SESSION", dated 7 April, 2000 (ref. NG0018E1).
9. The heading for the classification of the apparatus in discussion is given as 7323.93, which as you are aware is a classification for household articles.
10. Nevertheless, even though in the "AMENDMENTS TO THE COMPENDIUM OF CLASSIFICATION OPINIONS ARISING FROM THE CLASSIFICATION OF A NON-ELECTRIC STAINLESS STEEL CHAFING DISH ("BAIN-MARIE") IN SUBHEADING 7323.93", dated 5 January, 2000 (ref. NC0192E1) it was emphasized that the apparatus was intended for use in *establishments-especially hotels*, you classified it under heading 73.23, which as mentioned above is for household articles.
11. Therefore, its classification under heading 73.23 is not correct.
12. Another point we wish to raise, which clarifies why the classification in heading 73.23 is incorrect, touches on the function of the apparatus and that, as it is constructed, the apparatus allows for the addition of an electrical heating element (as may be seen in the accompanying photograph), which is intended for heating food put into the apparatus.
13. According to Section XV, Section Note 1, Paragraph (f) – "BASE METALS AND ARTICLES OF BASE METAL – This section does not cover : - Articles of Section XVI (machinery, mechanical appliances and **electric goods**);" and as such, according to this rule it does not classify the apparatus in discussion under heading 73.23.
14. In our opinion, since we are not discussing a household article, the classification should be under heading 84.19."

III. NOTE FROM ISRAEL DATED 29 MAY 2000

15. "The product at issue is not just very similar to the one that the HSC classified in subheading 7323.93 at its 24th Session, but is indeed the very same product, model "RONDO 1/1 GN", No. 2509-697, supplied with an electric heating element.

16. Since the apparatus is intended for cooking or heating foodstuffs electrically, the correct classification is, in our view, in heading 84.19. This is also the view of the Secretariat, as stated in your letter.
17. Moreover, it is our view that a similar chafing dish, intended for cooking or heating foodstuffs by non-electrical means, made for use in establishments such as hotels, such as is described in Classification Opinion 7323.93, may not be classified in heading 73.23, since it is not a household article, by virtue of its design.
18. The Explanatory Note to heading 73.23 (page 1123), stating that the first part of heading 73.23 “includes the same goods for use in hotels...” cannot be interpreted in contradiction to that part of the heading. Therefore, goods which are not household articles, as in this case, cannot be included. The Explanatory Note can only be referring to the “same goods” which may equally be household articles for “household purposes”, or for the purposes of use in hotels etc., such as for example, milk jugs, tea pots, sugar basins, egg-cups or serviette rings.
19. We do not agree with the opinion that the Explanatory Note to heading 84.19 (page 1271) excludes the product concerned. There is no doubt that the product has a heating source, be it an electric element, cooking fuel gel or other, and this heating source produces at least a “simple change of temperature”, even if it is only in continuously reversing the heat loss to the environment.
20. In addition, item (17) of the Explanatory Note to heading 84.19 (page 1273) refers to “Specialised heating or cooking apparatus...” including “hot-plates” and “warming cupboards”, which perform similar functions.
21. In light of the above, we request that the subject of the classification of a chafing dish for use in hotels and similar establishments be reconsidered (including Opinion 7323.93), with a view to classification in 84.19.”

IV. SECRETARIAT COMMENTS

22. In the Secretariat's opinion, there are two basic issues raised in the Notes from the Israeli Administration – the validity of Classification Opinion 7323.93 and the classification of a stainless steel chafing dish fitted with a thermostat-controlled heating element.
23. As regards the first issue – the validity of Classification Opinion 7323.93 – the Secretariat would note that the views expressed by the Israeli Administration were also raised by others during the discussion of this question at the 24th Session of the Committee. Furthermore no reservations were entered with regard to this decision of the Committee. The Committee will therefore first need to decide whether it would like to re-open this issue and again discuss the classification of the non-electric chafing dish covered by Classification Opinion 7323.93.
24. As already mentioned, the second issue raised by Israel concerns the classification of an electric chafing dish which can be described as follows :

Description

Stainless steel chafing dish, with a lid that opens upwards, having a diameter of 50 or 70 cm depending on the type. When heated, a water pan under the tray keeps the food warm. The rear of the appliance is fitted with a thermostat-controlled heating element which fits directly under the water pan and thus ensures heat transfer. Burners and fuel paste can also be used to operate the chafing dish without electricity. The chafing dish is 66 cm long, 48 cm high and has a 14 litre capacity.

25. The Secretariat reiterates the stance it adopted in its letter of 22 May to the Israeli Administration as, in its opinion, and given the information and photographs sent by the requesting Administration, the article at issue is an electric chafing dish which can also use other energy sources.
26. The Secretariat wishes to draw the HSC's attention to the fact that this chafing dish is a cooking appliance and plate warmer that can use electricity. On the basis of this characteristic, it is to be excluded from heading 73.21 and falls in Section XVI, in accordance with the information in the Explanatory Note to heading 73.21 (page 1121) and the Explanatory Note to heading 84.19 (page 1271).
27. In the Secretariat's opinion, the characteristics of the chafing dish which can use either electricity or burners and fuel paste to heat and keep food warm seem to correspond to the characteristics of apparatus fulfilling the conditions set out in the text of heading 84.19, namely "the treatment of materials by a process involving a change of temperature".
28. In the light of the foregoing and from the characteristics in the description, and given that the chafing dish at issue seems to be of the type used in hotels, the Secretariat feels that the article described in paragraph 24 above could fall in heading 84.19, and more specifically in subheading 8419.81 by application of GIRs 1 and 6.

V. CONCLUSION

29. The Committee is invited to decide whether it wishes to re-examine Classification Opinion 7323.93 and, if so, to instruct the Secretariat to prepare a document for the consideration of this question at its next (27th) Session.
30. The Committee is further invited to examine the classification of the chafing dish described in paragraph 24 above, taking account of the comments by the Israeli Administration in paragraphs 8 to 21 above, the comments by the Secretariat in paragraphs 25 to 28 and the information in Annex III to this document. It is also invited to decide on the action to be taken in respect of this matter.

* * *

Secretariat fax No 00NL0475 of 22 May 2000, sent to
the Israeli Administration

SUBJECT : Harmonized System (HS) classification of a chafing dish ("bain marie")

In reply to your letter of 8 May I should inform you that the product at issue is very similar to one that the HSC at its 24th Session classified in subheading 7323.93, which decision was followed by an amendment to the Compendium of Classification Opinions at the HSC's 25th Session. In the Secretariat's opinion, the differences between the two products seem to be their energy source and their use. Thus the HSC classified a product intended to maintain food at a constant temperature by means of burners or ice cubes in subheading 7323.93, and the Explanatory Note to that heading (page 1123, first paragraph of Explanatory Note to heading 73.23) says that the heading includes "...the same goods for use in hotels...".

Your administration seems rather to be referring to an apparatus intended for cooling or heating foodstuffs electrically, which in the Secretariat's view would fall in heading 84.19 or heading 85.16 as applicable. In the light of the foregoing the Secretariat wishes to inform you that if you regard this as being the same product you could enter a reservation to the amendment to the Compendium of Classification Opinions, which would have to be done before 31 May 2000 given that the time-limit for reservations by Contracting Parties in respect of the classification ruling was 31 December 1999.

If however you regard it as a different product you could, if you so wish, request that the HSC examine the classification of the apparatus at its next session.

I would appreciate a prompt reply from you.

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Secretariat fax No. 00NL0744 of 31 July 2000, sent to the
Israeli Administration

Subject : Classification of an electric chafing dish (“bain-marie”)

Thank you for your letter of 29 May 2000 asking the Secretariat to submit the question of classification of an electric chafing dish to the Harmonized System Committee.

In reply, to enable the Secretariat to prepare a document to be submitted to the HSC, I would be grateful if you could send me, as soon as possible, additional information on the nature of the product and its characteristics, especially :

- Its description, dimensions, constituent materials, capacity, function and trade name.
- Catalogues and brochures on such products will also be of help.

I would appreciate your comments and classification proposal.

* * *

Letter from the Israeli Administration, dated 24 September 2000

With regard so the enquiry that our office received concerning the above matter I would like to respond as follows :

1. Your letter dated 25 August, 2000 did not reach our office, therefore we were unable to respond. We initiated the referral to the committee, therefore we would have supplied any needed information if we had received the letter.
2. Enclosed in the letter sent to Mr. Kappler dated 29 May, 2000 were Polaroid photographs of the appliance. Due to that fact that this letter was received, we are certain that the photographs were received as well.
3. In the same letter, dated 29 May, there were several arguments outlining the reasons that the classification should be under heading 84.19 and not heading 73.23. These arguments refer to aspects beyond the technical side of this being an electrical appliance. We are kindly asking that the notification refer to all the arguments detailed in the letter.
4. Additional details pertaining to the appliance, as requested, are as follows :

The company's name is Spring Switzerland.
The appliance is made from stainless steel.
The upper part is round and opens upwards.
The upper part comes in two diameters; 50 or 70 cm.

Underneath the tray there is a water pan, which when heated, keeps the food warm.

An electric heating unit, to heat the water, can be installed in the lower part of the appliance.

The water can also be heated using heating fuel paste.

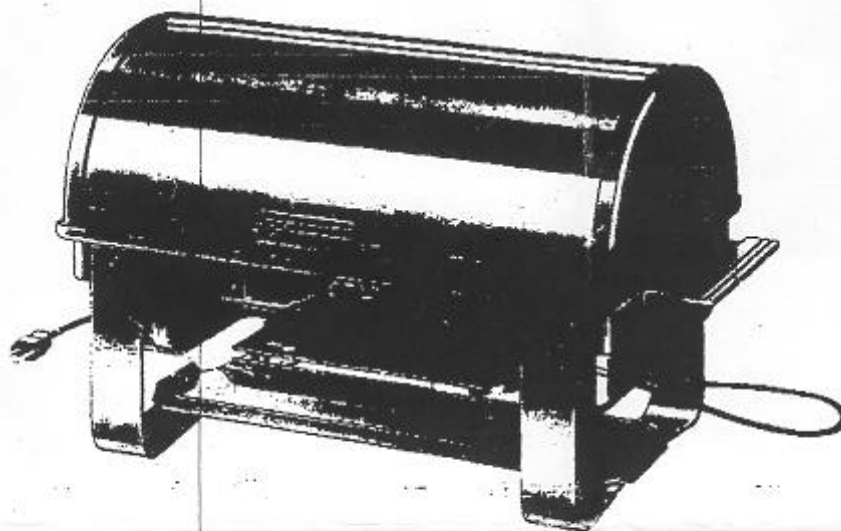
The dimensions of the appliance are as follows :

Length : 66 cm
Width : 48 cm
Height : 40 cm
Volume : 14 litre

5. Enclosed are pictures of the appliance and of the electric heating element.

* * *

(CSH/26/nov. 2000)
(HSC/26/Nov. 2000)



Neu auch für Chafing Dishes 2/3 Gastronorm und für runde Chafing Dishes mit Ø 50 cm und 70 cm!

Nouveau: également pour Bain-Marie 2/3 GN et ronds de Ø 50 et 70 cm!

New also for 2/3 Gastronorm and round 50 and 70 cm diameter chafing dishes!

NOUVEAUTE'
NOUVEAUTE'
NOUVEAUTE'

Elektro-Heizelement für Chafing Dishes

Neu können nun auch die Chafing Dishes der Größe 2/3 Gastronorm und die runden Chafing Dishes mit Ø 50 cm und 70 cm mit der temperaturkontrollierten Elektro-Heizung ausgerüstet werden. Die integrierte Regelung ohne Thermostat schützt vor Überhitzung und spart gleichzeitig Energie.

Das Elektro-Heizelement wird direkt an der Warmhaltewanne angebracht und sorgt so für eine hervorragende Wärmeübertragung. Für stromunabhängigen Betrieb können - nach einfachem Entzerren des Heizelementes - weiterhin Firestar-Brenner und Brennstoffe eingesetzt werden.

Corps de chauffe électrique pour Bains-Marie

Nouveau: Les Bains-Marie 2/3 GN et les ronds de Ø 50 et 70 cm peuvent également être équipés du chauffage électrique à réglage thermique. Le réglage incorporé (sans thermostat) protège contre l'échauffement excessif et permet simultanément d'économiser de l'énergie.

Le corps de chauffe électrique se pose directement contre le récipient à eau et assure ainsi le transfert de la chaleur dans les meilleures conditions. Pour l'emploi hors secteur, on peut continuer à utiliser les brûleurs Firestar et le gel combustible Firestar. Retirer le corps de chauffe...

Electric Heating Unit for Chafing Dishes

2/3 Gastronorm and round 50 and 70 cm diameter chafing dishes may be now equipped with the electric heating unit with integrated heat control. The heat control (without a thermostat) protects the chafing dish from overheating while saving energy.

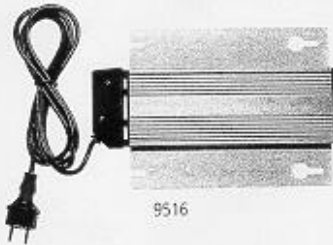
The electric heating unit fits directly under the water pan, thus ensuring perfect heat transfer. If you desire to operate your chafing dish without electricity, simply take out the heating unit and use the Firestar burner and fuel paste.

Spring
SWITZERLAND

(CSH/26/nov. 2000)
(HSC/26/Nov. 2000)

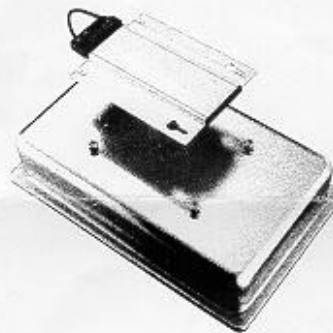
Elektro-Heizelemente • Chauffages électriques • Electric Heating Units

Elektro-Heizelement, für alle 1/1 und 2/3 sowie runden Chafing Dishes mit Ø 40, 50 und 70 cm, mit PTC-Temperaturregelung, Kabellänge 2,5 m.
Chauffage électrique, pour tous les bains-marie 1/1 et 2/3 GN et ronds Ø 40, 50 et 70 cm, réglage de température PTC, câble 2,5 m
Electric Heating Unit, for all 1/1 and 2/3 GN and round Chafing Dishes with Ø 15¹/₈, 19¹/₈ and 27¹/₈", with PTC heat control, length of cord 8ft



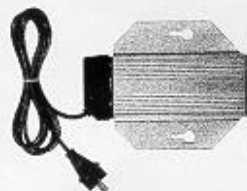
9516

Art-Nr. Modèle Ref.	Spannung tension voltage	Nennleistung puissance power	Abmessungen (L x B x H) Dimensions (l x l x h) Dimensions (l x w x h)
9515, 9516 9517	140 - 250 V AC/DC 100 - 120 V AC	360 W 450 W	30 x 20 x 1,5 cm 11 ¹ / ₈ " x 7 ¹ / ₈ " x ¹ / ₈ "
	Für den Einsatz in geschlossenen Räumen und bei vorwiegend geschlossenem Chafing Dish. Sehr sparsam im Energieverbrauch.	Utilisation à l'intérieur et bain-marie refermé pendant le service. Faible consommation d'énergie.	For use in non air-conditioned rooms or for chafing dishes of which the lids are opened for short periods only.
9515	Ausführung Schweiz, Stecker Typ 12.	Modèle suisse, fiche SEV.	Swiss standard, flat plug.
9515-101	Heizungsset, bestehend aus Elektro-Heizelement 9515 und Wanne 1/1 aus Edelstahl 18/10.	Set comprenant un chauffage électrique 9515 et un bac 1/1 en acier inoxydable 18/10.	Set comprising heating element 9515 and water pan GN 1/1 of 18/10 stainless steel.
9516	EU-Ausführung, mit Schuko-Stecker.	Modèle CEE, fiche Schuko.	EC standard, with EC plug.
9516-101	Heizungsset, bestehend aus Elektro-Heizelement 9516 und Wanne 1/1 aus Edelstahl 18/10.	Set comprenant un chauffage électrique 9516 et un bac 1/1 en acier inoxydable 18/10.	Set comprising heating element 9516 and water pan GN 1/1 of 18/10 stainless steel.
9516-102	Heizungsset, bestehend aus Elektro-Heizelement 9516 und Wanne 1/1 aus Edelstahl 18/10, verkupfert.	Set comprenant un chauffage électrique 9516 et un bac 1/1 en acier inoxydable 18/10, cuivré.	Set comprising heating element 9516 and water pan GN 1/1 of copper-plated stainless steel.
9517	USA-Ausführung, mit US-Stecker (nicht UL-geprüft).	Modèle USA, avec fiche US (non contrôlé normes UL).	US standard, with US plug (non UL-approved).



9515-101

Elektro-Heizelement
für alle runden Chafing Dishes mit Ø 30 cm, mit PTC-Temperaturregelung, Kabellänge 2,5 m
Chauffage électrique
pour tous les bains-marie ronds de Ø 30 cm, réglage de température PTC, câble 2,5 m
Electric Heating Unit
for all round Chafing Dishes with Ø 11⁷/₈", PTC temperature control, length of cord 8 ft



9519

Art-Nr. Modèle Ref.	Spannung tension voltage	Nennleistung puissance power	Abmessungen (L x B x H) Dimensions (l x l x h) Dimensions (l x w x h)
9518, 9519 9520	140 - 250 V AC/DC 100 - 120 V AC	200 W 240 W	25 x 20 x 1,5 cm 9 ⁷ / ₈ " x 7 ¹ / ₈ " x ¹ / ₈ "
9518	Ausführung Schweiz, Stecker Typ 12.	Modèle suisse, fiche SEV.	Swiss standard, flat plug.
9519	EU-Ausführung, mit Schuko-Stecker.	Modèle CEE, fiche Schuko.	EC standard, with EC plug.
9520	USA-Ausführung, mit US-Stecker (nicht UL-geprüft).	Modèle USA, avec fiche US (non contrôlé normes UL).	US standard, with US plug (non UL-approved).